

necessary for the adjudication of the claim. Each request for approval of a fee shall be accompanied by a complete itemized statement, in duplicate, describing the services rendered. Such itemization shall contain the following information:

(1) The dates that services began and ended in addition to all dates on which conferences were held, documents or letters prepared, telephone calls made, etc.

(2) A description of each service rendered with the amount of time spent on each type of service.

(3) The amount of the fee which the representative desires for services performed.

(4) The amount of fees requested, charged or received for services rendered on behalf of the claimant before any State or Federal court or agency, in a similar or related matter.

(5) A statement explaining the basis for the amount of the fee requested.

(d) The representative shall arrange for the claimant to review the request for a fee and to comment as to the services provided and as to the reasonableness of the fee. The claimant's written comments should accompany the application for approval of a fee submitted to the Office.

(e) In considering any request for such a fee, the Office will not recognize such items as:

(1) Work performed before any other State or Federal agency or court including the Employees' Compensation Appeals Board, and any State or Federal Court.

(2) Any contract for the payment of an agreed sum or any contingent contract.

(3) Expenses incurred by the representative for services performed.

(f) The Office will not pay or assist in the collection of any representative fee. Neither will compensation payments be routinely forwarded to the representative with or without the claimant's approval.

(g) Any claimant aggrieved or adversely affected by an award of a fee may request a hearing or reconsideration by the Office, or may request review by the Employees' Compensation Appeals Board.

(h) A representative aggrieved or adversely affected by an award of a fee may request review by the Employees' Compensation Appeals Board.

(i) Any person who receives a fee, other consideration or gratuity on account of services rendered with respect to a claim under this part, unless approved by the Office, or who solicits employment for himself or another in respect to a case or claim under (or to be brought under) this Act shall be guilty of a misdemeanor under 18 U.S.C. 292 and upon conviction of each offense, will be punished by a fine of not more than \$1,000 or imprisoned not to exceed 1 year, or both. Utilization of an escrow deposit of funds by a representative for the deposit of a client's funds, prior to approval by the Office of the representative's fee, is not considered receipt or collection of a fee by the representative; provided, the escrow deposit of funds is one made by the claimant/client into the hands of a third party to be held by that third party until receipt of the Office's approval of the representative's fee, and then delivered by the third party to the representative in accordance with the decision of the Office and the provisions of the escrow agreement.

(Approved by the Office of Management and Budget under control number 1215-0115)

[40 FR 6877, Feb. 14, 1975, as amended at 47 FR 145, Jan. 5, 1982; 52 FR 10513, Apr. 1, 1987]

§§ 10.146—10.149 [Reserved]

§ 10.150 Statement relative to substantive rules.

(a) The principal function of the Office and its subordinate parts is that of adjudicating claims for workers' compensation. This function is quasi-judicial in character and involves the application of statutes and principles of law to resolve factual situations. This field of activity is within the specialized branch of the law generally referred to as "workers' compensation," and has its own particularized principles which have general applicability to workers' compensation statutes (State and Federal), as such statutes have certain common or underlying similarity in respect to the meaning of terms and phrases, and in respect to

scope, jurisdiction, and general basic concepts of employer liability.

(b) In the administration of the Act, the Office has one general policy, which is to follow and to adhere to the principles of workers' compensation law as stated in the opinions of the Supreme Court, the Federal Circuit Courts of Appeal, and the District Courts of the United States, as they may appropriately be applied or have been determined by the Employees' Compensation Appeals Board (ECAB) to apply in like situations arising under the Act. In addition, decisions and opinions of the judicial tribunals of the several States furnish principles of law of general applicability in the specialized field of workers' compensation, which form parts of the foundation of general principles relied upon in the application and interpretation of the Act. The Office applies the provision of the Act applicable in respect to a particular case or situation, to the extent that such provision can readily be applied without extrinsic aid, but where such aid is necessary the source thereof is the body of principles embodied in authoritative decisions of the courts and the ECAB within such well-recognized branch of the law.

REPRESENTATIVE PAYMENT

SOURCE: Sections 10.160 through 10.166 appear at 52 FR 10514, 10515, Apr. 1, 1987, unless otherwise noted.

§ 10.160 Indications for designation of a representative payee.

When the Office determines that a beneficiary is incapable of managing or directing the management of benefits either because of a mental or physical disability, or because of legal incompetence, or because the individual is under 18 years of age, the Office in its sole discretion may approve an individual designated or appointed to serve as the representative payee for funds due the eligible beneficiary.

§ 10.161 Selection of a payee.

(a) In approving a payee, the Office shall approve the person, agency, organization or institution which, in its judgment, will best serve the interest of the beneficiary. In making its decision the Office shall consider:

(1) The relationship of the person to the beneficiary;

(2) The amount of interest that the person shows in the welfare of the beneficiary;

(3) Any legal authority the person, agency, organization or institution has to act on behalf of the beneficiary;

(4) Whether the potential payee has custody of the beneficiary;

(5) Whether the potential payee is in a position to know of and to look after the needs of the beneficiary.

(b) For beneficiaries 18 years old or older, the general order of preference subject to the provisions of paragraph (a) of this section, shall be:

(1) A legal guardian, spouse or other relative who has custody of the beneficiary or who demonstrates strong concern for the personal welfare of the beneficiary;

(2) A friend who has custody of the beneficiary or demonstrates strong concern for the personal welfare of the beneficiary;

(3) A public or nonprofit agency or institution having custody of the beneficiary;

(4) A private institution operated for profit and licensed under State law which has custody of the beneficiary; and

(5) Persons other than above who are qualified to carry out the responsibilities of a payee and who are able and willing to serve as a payee for a beneficiary.

(c) For beneficiaries under age 18, the general order of preference subject to the provisions of paragraph (a) of this section shall be—

(1) A biological or adoptive parent who has custody of the beneficiary, or a legal guardian;

(2) A biological or adoptive parent who does not have custody of the beneficiary, but is contributing to the beneficiary's support and is demonstrating strong concern for the beneficiary's well-being;

(3) A biological or adoptive parent who does not have custody of the beneficiary and is not contributing toward his or her support, but is demonstrating strong concern for the beneficiary's well-being;

(4) A relative or stepparent who has custody of the beneficiary;